

## AMENDMENTS IN THE CLAIMS

Claims 17 - 20 ( cancelled ).

Claim 21 ( currently amended ) :

A low carbohydrate powdered sweetener comprising the following ingredients in wt. %;

<u>Ingredients</u>	<u>Range</u>	<del>Best Mode</del>
Lo Han Kuo Extract	45.6 - 45.8	<del>45.7</del>
Sucralose Powder	54.4 - 54.2	<del>54.3</del>

Wherein said Lo Han Kuo Extract is provided as a powder comprising at least 80 wt. % of Mogracide made from Momordica fruit and said Sucralose Powder comprises 99.9 Wt. % of Sucralose micronized powder having the chemical formula  $C_{12}H_{19}O_8Cl_3$  .

Claim 22 ( original ) :

The sweetener of Claim 21 for the sweetening of a product selected from the group consisting of ice cream, baked goods, candy, and beverages.

Claims 23 - 29 ( cancelled ) .

Claim 30 ( currently amended ) :

A new Low Carbohydrate powdered sweetener comprising the following ingredients in wt. %;

<u>Ingredients</u>	<u>Range</u>	<del>Best Mode</del>
Lo Han Kuo Extract <u>Powder</u>	45.6 - 45.8	<del>45.7</del>
Sucralose Powder	54.4 - 54.2	<del>54.3</del>

Claim 31 ( previously presented ) :

A low carbohydrate powdered sweetener having a weight ratio In the range of ;

Lo Han Kuo Extract Powder = 0.81 to 0.84  
Sucralose Powder

Claim 32 ( cancelled )

## **DISCUSSION OF CLAIMS**

To comply with the Examiner's request, each claim has been presented herewith with the proper status identifier, in accordance with MPEP 714. Claims 17 to 32, all of the claims in the case, are listed herein. Each section of an amended document now begins on a separate page. Applicant's amendments to the claims include proper markings and are in accordance with 37 CFR 1.121. Applicant's attorney wishes to thank Examiner Bekker for the opportunity to make these amendments.

Claims 17 to 20 are already cancelled. Claims 21 and 30 have been amended to delete the Best Mode Column i.e. 45.7 and 54.3, in order to overcome the Examiner's rejection under 35 USC Sec. 112. In addition, Claim 30 has been amended to include the words "powdered" and "Powder", respectively, in lines 1 and 4. This does not constitute "new matter" since Lo Han Kuo Extract is provided as a powder. See US 2007/0098867 A1 Para. 0013 lines 3 and 4 which states that Lo Han Kuo is provided as a powdered extract. Claim 22 is an original claim depending from Claim 21. Claims 23-29 and Claim 32 are cancelled. Claim 31 was previously presented.

Applicant's powdered sweetener is effective without the addition of a bulk sweetener, which is required by the reference Nestelle. Claims 21, 22, 30, and 31 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Nestelle (WO 01/28357 A2) as evidenced by China Natural Products Group Inc., Lo Han Kuo Extract from fresh fruit. The reference Nestelle teaches the combination of a traditional bulk sweetener with an intense sweetener. In contrast, there are now no bulk sweeteners in applicant's low carbohydrate powdered sweetener as provided in the claims. While Nestelle provides long lists of bulk sweeteners and long lists of intense sweeteners, there is no example in Nestelle of applicant's mixture of powdered sweeteners consisting of Lo Han Kuo Extract Powder and Sucralose powder, as specified in applicant's claims. Applicant's improved powdered sweetener provides a clean, sweet taste with no aftertaste.

## **DISCUSSION OF CLAIMS ( Continued )**

Claims 21, 22, 30, and 31 were rejected on the ground of nonstatutory obvious - type double patenting over claims 1-3 of U.S. Patent No. 6,773,743 B1 . The subject U.S. Patent Application 10/559,851 and U.S. Patent 6, 773,743 B1 are commonly owned by Applicant. Accordingly, the Terminal Disclosure on page 5, in compliance with 37 CFR 1.321 (c ) , is respectfully submitted herewith, to overcome the nonstatutory double patenting rejection.